



**TAXICAB, LIMOUSINE &
PARATRANSIT ASSOCIATION**

Representing taxicab, limousine, sedan, airport shuttle, paratransit, & non-emergency medical fleets worldwide.

April 11, 2001

U.S. Department of Transportation
Dockets Management Facility
Room PL-401
400 Seventh Street, SW
Washington, D.C. 20590

RE: Docket No. FMCSA-2000-7017

Dear Sir or Madam:

As of October 2000, the Taxicab, Limousine & Paratransit Association (TLPA) became the successor organization to the International Taxicab and Livery Association. This organization has actively participated in the discussions regarding the Safety Requirements for Operators of Small Passenger-Carrying Commercial Motor Vehicles Used in Interstate Commerce since the issue was first raised in the Transportation Equity Act for the 21st Century.

Formed in 1917, TLPA is the only national organization representing the owners and managers of taxicab, limousine, sedan/livery, airport shuttle, paratransit, and non-emergency medical fleets. Currently, TLPA has 1,100 member companies operating 108,000 passenger vehicles. Our member companies transport over 2 million passengers each day — more than 900 million passengers annually.

The taxicab, limousine, and paratransit industry is an essential part of public transportation that is vital to this country's commerce and mobility, to the relief of traffic congestion, and to improving the environment. The private taxicab, limousine, and paratransit industry transports 2 billion passengers annually; provides half of all the specialized paratransit services furnished to persons with disabilities; serves as a feeder service major transit stations and airports; and provides about half of its service to transportation disadvantaged people, such as the elderly, who are either not able to drive or do not have a car.

We estimate that half of our member companies operate vans or limousines designed to transport between 9 and 15 passengers. We also estimate that about half of these operators are engaged in interstate commerce.

TLPA's specific comments on relevant questions posed by the Federal Motor Carrier Safety Administration (FMCSA) are addressed below. However, TLPA would like to clearly state at the outset that the association and its members are opposed to the implementation of this Notice of Proposed Rulemaking (NPRM) at this time, primarily because the case has not been made that small passenger-carrying commercial motor vehicles used in interstate commerce "pose serious safety risks."

Unlike trucks and buses currently covered by the Federal Motor Carrier Safety Regulations (FMCSRs), vehicles designed to transport 9 to 15 passengers including the driver do not typically travel long distances, or on a fixed

route, or on a fixed schedule, or at high speeds, many of which are factors that contribute to the occurrence and severity of accidents. There are new requirements effective April 13, which will already require all carriers operating commercial motor vehicles (CMVs) designed to transport 9 to 15 passengers including the driver to meet a few basic FMCSRs provisions. These provisions include the maintenance of an accident log, which will provide accurate accident data specific to this industry. This data will answer many of the questions the agency has asked for in this proceeding, for which there is currently little or no specific data.

Rather than take specific policy action on imprecise and speculative data, it is TLPA's position that FMCSA should let the process it has already begun have time (two years) to generate relevant data that will establish a firm foundation for any policy action by the agency. There is no need to guess about the outcome when the steps are already in place to provide the much needed accurate data.

1. The NPRM, as proposed, will not apply to businesses that do not hold themselves out to the public as providers of transportation services. The agency requests comments on this issue.

TLPA sees no rational basis for exempting one vehicle that crosses a state line in commercial passenger service (and crosses a threshold that is deemed to have significance for safety) while covering another vehicle of the same make, with the same number of passengers, same trip distance and same driving time. The most likely distinguishing factors between the two types of services is that the commercial provider that is receiving direct compensation for transportation service has a vehicle on a preventive maintenance schedule and a professional driver whose livelihood depends on the continued safe operation of the vehicle, as opposed to a vehicle that is likely to be repaired only when inoperable and a driver (e.g., bellman for a resort) who may or may not have ever driven the vehicle before and whose career does not depend on the safe operation of a passenger vehicle. These distinguishing factors also make it clear that it is more important to cover the commercial passenger services that are not in the business (for direct compensation) of transporting passengers than it is to cover professional providers of for-hire transportation services. It is also worthwhile to note that the safety data presented in the NPRM makes no indication of any distinction between the two types of commercial providers, so there appears to be no evidence indicating that one or the other type of commercial provider is more or less safe for the riding public.

On April 10, 2001, an article in the *Washington Post* documented that federal highway safety regulators warned users of 15-passenger vans — “mostly colleges, hotels, civic groups and senior-citizen shuttle services” — that they are three times as likely to roll over when carrying 10 or more passengers as when carrying fewer people. The National Highway Traffic Safety Administration (NHTSA) decided to study the problem after several high-profile accidents that killed college athletes traveling in vans to and from sporting events. The NHTSA study stated, “The essential message is that the handling of this vehicle changes between the two loading conditions during extreme conditions and that a fully-loaded van is inherently less stable than an unloaded one.” NHTSA recommended that experienced drivers operate these vans. The majority of the trips taken by the users groups mentioned by NHTSA are long-distance intercity trips with a student, coach, or volunteer driver. As currently written, the vans noted by NHTSA would not be covered by the NPRM.

2. The agency requests comments on the methodology used to determine the distance and/or mileage threshold and whether air miles or statute miles should be used.

The FMCSA is proposing a distance threshold of 75 air mile radius from the company's base. This approach probably makes sense in a trucking or busing situation where the passenger or the freight gathers at one point and travels on a fixed route to a predetermined destination point. However, small passenger-carrying vehicles typically do not operate in this fashion. Typically, the passenger sets the pick-up point, the pick-up time, the route, the destination point, and the end time for the trip. The passenger does not adjust to the carrier's location, route and schedule as in the bus industry, but rather the small passenger-carrying vehicles adjust to the passenger's location, route and schedule.

TLPA believes that many of our members who are not subject to the FMCSRs will have a difficult time understanding and implementing the 75 air mile rule currently being proposed. Carriers with these smaller and typically short-distance vehicles are not familiar with the FMCSRs or its terminology, and are just now becoming aware of the new requirements on smaller vehicles that become effective on April 13. Here, TLPA proposes that 200 odometer miles serve as the mileage threshold for interstate trips. A trip of 200 miles would take approximately four hours in most areas. Assuming that there is not an overnight stay (a relatively rare occurrence), then the trip back to the point of origin would take an additional four hours, making the total driving time eight hours. Eight hours would be a much longer-than-average trip for this segment of the industry, but does not present a fatigue hazard or other driving problem. Another way to address this same issue would be to set the threshold, not at a mileage number but rather by total trip time. If the FMCSA chooses to set a time threshold, the time limit that TLPA would recommend would be 12 hours for an interstate passenger trip before the expanded FMCSRs are applicable.

If the FMCSA ultimately chooses to set an air mile threshold, then we recommend that the air mile number be set at least double the proposed 75 miles from the company's base. First, the location of the company's base has nothing to do with the passenger's length of trip. Unlike the bus industry, the trip almost never begins or ends at the base. Also, unlike the bus industry, the smaller vehicle does not necessarily visit the base location other than a typical weekly inspection.

The distance of the trip, for threshold purposes, needs to be based on the passenger pick-up point and the point during the trip that is farthest away from the pick-up point. It needs to be noted that unlike the bus industry, smaller passenger-carrying vehicles rarely make long-distance, one-way passenger trips. Smaller vehicles typically make round trips for passengers who are traveling longer distances. Therefore, it is critical that FMCSA clarify that if it selects a distance threshold for interstate trips, the distance would be calculated from the passenger pick-up point to the point of the trip that is farthest away from the pick-up point (the return miles should not be included for distance calculation purposes).

3. The agency believes a reasonable estimate of the population of motor carriers that could be subject to this rulemaking is approximately 1,648. The agency requests comments on this issue.

TLPA is concerned that the FMCSA may have grossly underestimated the number of small businesses that will be affected by the NPRM. New data from a national study of the major segments of the for-hire vehicle industry (taxicabs, limousine and liveries) has become available recently for the year 1998. That data, which TLPA believes to be significantly understated, indicates that the taxicab industry operates 1,720 vans that seat 9 to 15 passengers. The same study indicates that the limousine industry operates 2,600 vans that seat 9 to 15 passengers, and that the livery industry operates 296 vans that seat 9 to 15 passengers including the driver. This marks the first time that TLPA is aware of a study that has broken out minivans from large vans. The total large van count for these commercial providers is 4,616 in 1998 (TLPA believes the actual number of large vans to be approximately 10,000).

The data goes on to indicate that companies that have four or fewer workers operate 43% of the large vans (2,930). This strongly indicates that there are a large number of very small companies operating only one or two vans. If one estimates an average of 1.25 large vans per small company, then there are at least 2,344 ultra-small businesses that could be covered by this regulation. Then, if one assumes an average of 2.5 vans for the companies with more than four workers, an additional 674 small businesses could be affected by this regulation. This brings the total number of carriers operating large vans in 1998 to 3,018. It is probable that the number of large vans has significantly increased since 1998, and TLPA believes that the taxicab, limousine and livery industry has over 4,000 carriers that currently operate large vans. At this point in time, we do not know how many of the 4,000 small businesses also travel interstate and will pass the distance or time threshold that the FMCSA may set.

In addition to large vans, the NPRM would affect stretch limousines since they are designed to transport 9 passengers including the driver. The same study cited in the paragraph above notes that there are 45,759 limousines. The study does not indicate the length of the stretch of the limousines, so we do not know how many of these vehicles are designed to transport 9 or more passengers. TLPA believes that nationwide there are more than 30,000 stretch limousines in service that are designed to transport 9 passengers including the driver and that the majority of these vehicles are operated by companies that operate three or fewer vehicles. Again, we do not know how many of these vehicles are used in interstate transportation and will travel beyond the distance or time threshold proposed in the NPRM, but TLPA believes that approximately 10,000 limousine companies are likely to be affected by the NPRM as it is very common for limousine companies to engage in interstate travel.

When one adds the 4,000 companies that operate large vans to the 10,000 companies that operate stretch limousines, there are 14,000 companies likely to be affected by the NPRM. TLPA estimates that approximately 1,000 of the 14,000 companies operate both stretch limousines and large vans; therefore the adjusted total number of companies that operate small passenger-carrying vehicles is 13,000. The 13,000-company number does not include airport shuttle or paratransit companies, both of which are highly likely to operate large vans. Therefore, it is reasonable to add 1,000 carriers to this total, for a grand total of 14,000 carriers that operate vehicles designed to transport 9 to 15 passengers including the driver.

If one assumes that half of the 14,000 plus companies either do not engage in interstate commerce, or that they do operate in interstate commerce but do not exceed the distance or time threshold that may be established by FMCSA, then approximately 7,000 companies (many of which operate one to three total vehicles) are likely to be affected by the NPRM. This would make the agency's current estimate of the number of carriers likely to be affected by the NPRM understated by more than 400%. This would also greatly distort the cost estimates compiled by the agency.

4. The van operations that would be regulated have similar operational characteristics as intercity motor coach businesses and should be required to meet similar standards of safety. The agency requests comments on this issue.

TLPA respectfully but very strongly disagrees with the notion that luxury limousine service or local van service has much in common with the huge intercity buses that travel very long distances, on fixed routes, on fixed schedules, and very often at high speed. Our reply comments indicate numerous examples of how the intercity bus industry's method of operation is totally foreign to the limousine and van industry. In addition, it is not uncommon for over-the-road buses to average 100,000 vehicle miles per year. On the other hand, stretch limousines average less than 25,000 annual miles per vehicle and vans barely exceed an average of 30,000 miles annually. These 9 to 15 passenger vehicles are typically used for relatively short distance, lower speed, urban service that is not operated on a fixed route or fixed schedule. Vans or limousines that operate in fixed route, intercity service are very much the exception for the small vehicle segment of the transportation industry. If long-distance, fixed route van service presents a safety problem, then the FMCSA could target the problematic service by establishing an adequate distance or time threshold for interstate service.

If the FMCSA chooses to implement the NPRM, very serious consideration should be given to exempting all vehicles that seat 12 or fewer passengers, or alternatively, exempting stretch limousines.

5. The agency believes that the FARS and GES data suggest that it is in the public interest to require compliance with the FMCSRs as soon as practicable. The FMCSA requests comments on this issue.

The NPRM fails to make the case that the targeted vehicle class poses a serious safety risk. The FARS data presented in the NPRM is speculative, imprecise, and inconclusive.

TLPA has located an unpublished study, "Taxi & Livery Statistics," which examines FARS data for 1992, 1993, and 1994 specifically for the taxicab (150,000 vehicles) and limousine (50,000 vehicles) segments of the industry. For those three years, the taxicab industry experienced 224 fatal crashes with no one year having more than 79 or fewer than 71 fatal collisions. Only 15 of the fatal accidents in the taxicab industry involved large vans while two involved limousines.

The limousine industry has an even more impressive safety record. From 1992 through 1994, the limousine industry experienced only 18 fatal crashes, from a low of five to a high of seven in any one year. All 18 fatal crashes involved limousines, not large vans.

In addition, the average occupancy of the taxicabs involved in fatal accidents was 1.93, while the average occupancy for limousines in fatal accidents was 1.83. TLPA believes that our industry's safety record of 242 fatal accidents out of over 3 billion trips is a significant safety success. Even with .00000008 fatal accidents per trip, the industry continually strives to improve its safety record.

In comparison, the bus industry operates 40,000 vehicles, and according to the National Safety Council's Injury Facts, commercial buses were involved in 51,000 accidents in 1999 alone, including 100 fatal accidents. The bus industry with only a quarter as many vehicles than the combined taxicab and limousine industry has 20% more fatal crashes. This happens even though the bus industry is already subject to the full FMCSRs. The reason for this is not that the bus industry is unsafe or poorly managed, but rather that it operates very differently from the taxicab and limousine industry. Buses travel on fixed routes, have to maintain fixed schedules, drive at high speeds, and travel very long distances. These operating characteristics make buses far more likely to have serious accidents.

Should the FMCSA decide to implement the NPRM, then TLPA respectfully requests more than a 90-day period for carriers to come into compliance. A very significant portion of our industry is not aware of the new regulations that have already been imposed on carriers that operate commercial vehicles designed to transport 9 to 15 passengers. These carriers are less likely to belong to an association and probably do not yet know that they are subject to new rules that are effective April 13. Adding immediate additional new requirements that are far more onerous and complicated will serve to undermine voluntarily compliance by many very small carriers. TLPA and the FMCSA will need to conduct a significant outreach effort to bring carriers into compliance with the current new regulations. TLPA urges at least a 180-day period for carriers to come into compliance with any additional regulations.

6. The FMCSA requests public comment on the feasibility of making the adoption and enforcement of compatible safety regulations applicable to small passenger-carrying CMVs operated in interstate commerce a condition of receiving MDSAP funds.

TLPA and its membership believe there is no need and the evidence does not support expanding the requirements for MCSAP funding to include small passenger-carrying CMVs.

7. The agency requests comments on whether the variances should be amended to require the adoption and enforcement of intrastate regulations applicable to the intrastate operation of these types of vehicles.

The NPRM indicates that there are only three states that appear to have a significant safety concern with small passenger-carrying commercial vehicles. TLPA believes that states that have a safety problem are in the best position to determine the optimum way to address their specific safety concerns. For example, the NPRM indicates that California has the most serious safety problem, yet California already requires vehicles that are designed to transport 10 or more passengers to meet the full FMCSRs. Therefore, it would seem that the FMCSRs

might not be the best way to address the safety concerns of passenger vehicles that do not operate similarly to the intercity bus or trucking industry.

8. The agency requests comments on its cost estimates for complying with the expanded FMCSRs called for in the NPRM.

TLPA believes the estimates to be extremely low because we believe the number of affected companies and the number of vehicles estimated by the agency is low. In addition, the number of affected drivers is grossly underestimated. Because the taxicab and limousine industry does not operate similarly to the bus industry, we very often do not know in advance which driver will be called upon to drive a passenger on an interstate trip. This makes it operationally necessary for the carrier to license a large pool of drivers in order to meet the fluctuation demand for interstate travel. However, even if one accepts the low estimates given by the agency, one cannot disregard the fact that it is estimating an annual compliance cost of over \$4 billion for an industry with a gross revenue of approximately \$12 to \$17 billion for all intra- and inter-state service. Compliance costs will more than exceed the industry's gross profit margin, leading to insolvent companies, which raises issues of loss of jobs and disruption in public transportation service.

In conclusion, TLPA and its members believe:


- This NPRM should await the collection of accurate data that will be created by the FMCSA rule that goes into effect on April 13, 2001, as current data is not precise and does not indicate that small passenger-carrying vehicles pose a serious safety risk.
- The taxicab and limousine industry does not function in an even remotely similar fashion to the intercity bus industry and should not be held subject to rules designed for the bus industry.

Should FMCSA choose to issue a rule:

- The rule should apply to all commercial carriers whether or not they receive direct compensation.
- All vehicles that seat 12 or fewer passengers should be exempt, or at a minimum, limousines should be exempt from the rule.
- The rule should only apply to interstate large van carriers that provide very long-distance transportation.
- The threshold for interstate carrier coverage by the rule (TLPA recommends a time-based standard of 12 hours) should be adequate to focus the agency's efforts on the portion of the small passenger-carrying vehicles that may be shown to pose a serious safety risk (most likely to be large vans operated in very long-distance transportation on a fixed route, on a fixed schedule, and operating at high speeds).

TLPA stands ready to assist FMCSA in reviewing its NPRM to achieve an outcome we all strive for — the safest reasonable passenger transportation industry.

Respectfully submitted,



Alfred LaGasse
Executive Vice President